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SENATE JOINT RESOLUTION 517
By Kurita

A RESOLUTION relative to the utilization of non-nursing facility personnel in long-term care facilities to assist residents with eating during mealtimes.

WHEREAS, there are many residents of long-term care facilities who need assistance to eat the meals the facility prepares for them; and

WHEREAS, long-term care facilities may not have a sufficient number of nursing staff available to assure each resident is provided the assistance necessary for the resident to consume the three meals a day, seven days per week provided for them in either a timely manner or at the appropriate temperatures; and

WHEREAS, residents of long-term care facilities who do not receive the necessary amount of assistance with eating can suffer significant weight loss and increased vulnerability to infections as a result; and

WHEREAS, the Social Security Act, Section 1819(b)(5)(F) prohibits a long-term care facility from utilizing non-nursing facility personnel to provide nursing or nursing-related services

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to residents, including assistance with eating, unless such personnel have successfully completed a nurse aide training and competency evaluation program; and

WHEREAS, the Social Security Act defines a nurse aide as any individual providing nursing or nursing-related services to residents in a long-term care nursing facility, but does not include an individual who is a licensed health professional, a registered dietician, or an individual who volunteers to provide such services without monetary compensation; and

WHEREAS, the Social Security Act defines a licensed health professional as a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, physical or occupational therapy assistant, registered professional nurse, licensed practical nurse or licensed certified social worker, registered respiratory therapist or certified respiratory therapy technician; and

WHEREAS, the State has a substantial responsibility to our elderly population to ensure all long-term care facility residents receive the services needed for the protection of their health, safety and well-being, while preventing the necessity for additional allocation of federal or state money to ensure the provision of all such services; and

WHEREAS, any non-nursing facility personnel assisting in feeding would not be calculated in the number of direct caregiver hours required for staffing the facility and, as such, would not permit a long-term care facility to substitute non-nursing personnel for licensed and certified health professional staff; and

WHEREAS, non-nursing personnel who are used to assist in feeding residents who do not have special needs that require the assistance of licensed or certified health professional personnel would be required to complete a facility-initiated training program covering, at a minimum, infection control and appropriate response to emergency situations such as choking; and

WHEREAS, residents of long-term care facilities who have special needs requiring the assistance of licensed or certified health professional personnel would not be assisted by non-nursing facility personnel in feeding; and

WHEREAS, the State recognizes a need for a change in federal requirements to allow long-term care facilities to utilize available non-nursing facility staff, besides licensed health professionals, registered dietitians, volunteers or family members, and outside volunteers, to perform the non-professional nursing service of providing residents with assistance in eating; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED SECOND GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, That this Body hereby memorializes the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to amend the federal regulation restricting the utilization of non-nursing facility staff to assist residents during meal time, in accordance with developed long-term care facility policies and procedures.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be transmitted to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.